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May 9, 2014

VIA ECF

Honorable Magistrate Judge Robert M. Levy
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Silverman & Silverman, LLP v. Pacifica Foundation*
Case No. : CV 11 1894 (FB)(RML)
LBC&C File No. : 12 169L 96421

Honorable Magistrate Levy:

We write as counsel for plaintiff Silverman & Silverman, LLP ("Silverman") on the counterclaims and with respect to the status of this matter. On March 26, 2014, we filed a letter via ECF in which we detailed the fact that the parties had reached a settlement, but the settlement could not be finalized by defendant Pacifica Foundation ("Pacifica"). In that letter, pursuant to the District Court Judge's prior order, we requested the Court's help in either ordering Pacifica to immediately execute the settlement agreement or be forced to enter into a new discovery schedule.

Notably, it has been over a month since our letter was filed, and there has been no response from Pacifica or its counsel. Silverman has made it clear that it will no longer agree to the previous settlement figure. We remind this Court that Pacifica has a long history of recalcitrant behavior, consistent disregard for discovery orders, and failing to respond on a timely basis to even its own counsel. It, unfortunately, appears that this settlement process was nothing more than a ruse to enable Pacifica to prolong this litigation for several additional months.

At this point, since there will not be a settlement of this matter, we need to complete the remainder of discovery, and then, Silverman intends to file a motion for summary judgment to dismiss the counterclaims against it. There are four Pacifica witnesses that need to be deposed, and on several occasions, we requested the Court's intervention in forcing Pacifica to provide multiple options of continuous dates for the availability of these individuals' depositions. Indeed, if Pacifica wants counsel to travel to California to take all of these depositions, they need to provide us with advanced notice which gives us options of multiple dates that we can take the four individuals

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depositions over the course of two to three days. Accordingly, we respectfully request that the Court issue the following order:

- By May 19, 2014, Pacifica's counsel must provide Silverman's counsel with multiple options for three consecutive days of depositions of all four of Pacifica's witnesses that have been previously identified by Silverman to Pacifica (and all of those options for dates can be no later than June 30, 2014);
- All fact discovery to be completed by July 18, 2014;
- Submission of expert report, if any, by Pacifica due August 1, 2014;
- Submission of rebuttal expert report by Silverman due September 5, 2014;
- All expert depositions to be completed by September 19, 2014;
- Dispositive motions to be filed by October 10, 2014.

We thank the Court for its consideration of the above.

Respectfully submitted,



SCOTT E. KOSSOVE

SEK:lg

cc: (Via ECF)
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Attorney for Plaintiff
Patrick J. Hackett, Esq.
Attorney for Defendant